

## ARCHITECTURAL EXAMINING BOARD[193B]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby amends Chapter 7, “Disciplinary Action—Unlicensed Practice,” Iowa Administrative Code.

The amendment is a result of 2017 Iowa Acts, Senate File 408, which requires licensure rather than registration of architects practicing in this state. This bill passed the Iowa Senate on March 28, 2017, 49-0, and passed the Iowa House on April 6, 2017, 96-0; it was signed by then Governor Branstad on May 11, 2017. The amendment changes terminology from registered/registration to licensed/licensure.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3175C** on July 5, 2017. A public hearing was held on July 25, 2017. There were a few comments in response to the Notice. Most of the feedback consisted of questions regarding the timing of obtaining a new seal. Two responses were supportive, and one questioned whether “architect” needed any modifier. This amendment is identical to that published under Notice.

The amendment is subject to waiver or variance pursuant to 193—Chapter 5.

The amendment was adopted by the Board on August 22, 2017.

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs and no fiscal impact to the state.

This amendment is intended to implement Iowa Code chapter 544A as amended by 2017 Iowa Acts, Senate File 408.

This amendment will become effective November 1, 2017.

The following amendment is adopted.

Amend rule 193B—7.3(544A) as follows:

**193B—7.3(544A) Civil penalties against ~~nonregistrant~~ unlicensed person.** The board may impose civil penalties by order against a person who is not ~~registered~~ licensed as an architect pursuant to Iowa Code chapter 544A based on the unlawful practices specified in Iowa Code section 544A.15(3). In addition to the procedures set forth in Iowa Code section 544A.15(3), this rule shall apply.

**7.3(1)** The notice of the board’s intent to impose a civil penalty required by Iowa Code section 544A.15(3) shall be served upon the ~~nonregistrant~~ unlicensed person by restricted certified mail, return receipt requested, or personal service in accordance with Rule of Civil Procedure 1.305. Alternatively, the ~~nonregistrant~~ unlicensed person may accept service personally or through authorized counsel. The notice shall include the following:

a. to d. No change.

e. Notice of the ~~nonregistrant’s~~ unlicensed person’s right to a hearing and the time frame in which hearing must be requested.

f. No change.

**7.3(2)** ~~Nonregistrants~~ Unlicensed persons must request a hearing within 30 days of the date the notice is mailed, if served through restricted certified mail to the last-known address, or within 30 days of the date of service, if service is accepted or made in accordance with Rule of Civil Procedure 1.305. A request for hearing must be in writing and is deemed made on the date of the United States Postal Service postmark or the date of personal service.

**7.3(3)** No change.

**7.3(4)** If a request for hearing is timely made, the board shall issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against ~~registered~~ licensed architects.

**7.3(5)** In addition to the factors set forth in Iowa Code section 544A.15(3), the board may consider the following when determining the amount of civil penalty to impose, if any:

a. to g. No change.

h. Whether the ~~nonregistrant~~ unlicensed person acted in bad faith.

i. The extent to which the ~~nonregistrant~~ unlicensed person cooperated with the board.

**7.3(6)** ~~A nonregistrant~~ An unlicensed person may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty at any stage of the proceeding upon mutual consent of the board.

**7.3(7)** No change.

[Filed 9/5/17, effective 11/1/17]

[Published 9/27/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/27/17.